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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

20 Cr. 76 (NRB)

5 ZACHARY CLARK,
6 a/k/a "Abu Talha,"
7 a/k/a "Omar Kabir,"
8 a/k/a "Omar Shishani"
9 Defendant.

Arraignment

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10 New York, N.Y.
11 February 3, 2020
12 3:15 p.m.

13 Before:

14 HON. NAOMI REICE BUCHWALD,

15 District Judge

16 APPEARANCES

17 GEOFFREY S. BERMAN
18 United States Attorney for the
19 Southern District of New York
20 BY: GILLIAN GROSSMAN
21 MATTHEW HELLMAN
22 Assistant United States Attorneys

23 FEDERAL DEFENDERS OF NEW YORK
24 Attorney for Defendant
25 BY: JONATHAN MARVINNY

K23LCLAA

1 2/3/2020

2 20Cr. 76

3 United States vs. Zachary Clark

4 arraignment and initial conference

5 for the government: Gillian Grossman and Matthew Hellman.

6 for the defendant Jonathan Marvinny.

7 -- -- -----

8 THE COURT: Good afternoon. Everyone may be seated.

9 Okay.

10 (Case called)

11 MS. GROSSMAN: Yes, your Honor.

12 Gillian Grossman and Matthew Hellman, for the
13 government.

14 THE COURT: All right. Is this Mr. Clark's first
15 appearance, subsequent to this indictment?

16 MS. GROSSMAN: Yes, your Honor.

17 THE COURT: Okay. So, Mr. Marvinny, have you received
18 a copy of the indictment in this case?

19 MR. MARVINNY: Yes, your Honor.

20 THE COURT: And have you had a chance to review it
21 with Mr. Clark?

22 MR. MARVINNY: Yes, your Honor.

23 We would waive its public reading.

24 THE COURT: Mr. Clark, how do you plead, guilty or not
25 guilty?

K23LCLAA

1 THE DEFENDANT: Not guilty.

2 THE COURT: Have the parties had a chance to discuss
3 next steps in terms of discovery or perhaps other things?

4 MS. GROSSMAN: Yes, your Honor.

5 The government is ready to make its first discovery
6 production today. And we expect the production of discovery to
7 be substantially complete by early March.

8 The defendant and defense counsel have signed a
9 stipulated protective order, which, if the Court would like, we
10 can hand up for the Court's consideration. We've asked defense
11 counsel to provide one terabyte hard drive for the government's
12 second discovery production, given the volume of materials.

13 THE COURT: Okay.

14 Do you want to hand that up?

15 MS. GROSSMAN: Yes. Thank you.

16 THE COURT: I've signed it.

17 MS. GROSSMAN: Thank you, your Honor.

18 THE COURT: So, Mr. Marvinny?

19 MR. MARVINNY: I would respectfully request coming
20 back to this Court approximately 45 days after discovery is
21 complete. We're looking at about a terabyte of discovery, so I
22 think that seems like an appropriate time frame, your Honor.

23 THE COURT: Well, on the assumption, as the government
24 said, that discovery would be completed by early March.

25 MR. MARVINNY: Mid April?

K23LCLAA

1 THE COURT: Okay. How about April 21st, at 2:30?

2 MR. MARVINNY: Thank you.

3 THE COURT: Is that good for the government?

4 MS. GROSSMAN: Yes, your Honor. Thank you.

5 Mr. Marvinny, any objection to excluding the speedy
6 trial?

7 MR. MARVINNY: No.

8 THE COURT: I find a continuance until April 21st
9 serves the ends of justice and outweighs the best interests of
10 the public and the defendant in a speedy trial in that it will
11 permit time for the government to make discovery and for the
12 defendant to consider that discovery.

13 Is there anything else at this time?

14 MS. GROSSMAN: Yes, your Honor.

15 Just one matter. We wanted to notify the Court that
16 we anticipate filing a motion pursuant to the Classified
17 Information Procedure's Act in this case, otherwise known as
18 CEPA. That motion is typically filed ex parte, which is how we
19 intend to file it here. And we'd like to have a Section (2)
20 conference with the Court in order to describe what the Section
21 (4) motion under CEPA will entail. And we're asking to have
22 that conference ex parte as well, so that we can discuss the
23 content of the motion with the Court and describe the
24 classified material at issue.

25 The government has conferred with the classified

K23LCLAA

1 information security officers assigned to this district, who
2 would attend such a conference. They're available any Friday
3 in February, if that works for the Court, or whatever date, of
4 course.

5 THE COURT: That is, for multiple reasons, not
6 convenient. Are there other dates that they would like --
7 non-Fridays that they would like to consider and skipping
8 President's week?

9 MS. GROSSMAN: They didn't provide us with any. So I
10 would suggest scheduling the conference to the Court's
11 convenience. And we'll make sure that an officer makes himself
12 available.

13 THE COURT: Is there some particular reason that they
14 pick Fridays?

15 MS. GROSSMAN: Yes, your Honor.

16 The officers assigned to this are district are
17 currently engaged in -- assigned to attend a trial every day
18 occurring in this district that deals with a large quantity of
19 classified information.

20 THE COURT: Okay. I think the officer dropped by
21 chambers earlier today.

22 How long is that trial expected to continue?

23 MS. GROSSMAN: I expect at least a month, your Honor.

24 THE COURT: Okay. And, again, that judge does not sit
25 on Fridays. Okay. What I would suggest -- and maybe you can

K23LCLAA

1 get back to me -- is maybe we could do something at the end of
2 the day after that trial comes to an end.

3 MS. GROSSMAN: Yes, your Honor.

4 THE COURT: That seems like a possibility.

5 MS. GROSSMAN: Absolutely. And I'll suggest that to
6 the --

7 THE COURT: Okay. Why don't we do that.

8 MS. GROSSMAN: Okay. Thank you.

9 THE COURT: Okay. All right. So you'll get back to
10 me?

11 MS. GROSSMAN: Yes, your Honor, we will.

12 THE COURT: All right. Anything further?

13 MR. MARVINNY: No, your Honor.

14 THE COURT: Okay. Very good. Thank you.

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